

UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Anton Oppel et al.
Application Number: 10/579,280
Filing Date: 01/25/2007
Group Art Unit: 3673
Examiner: Alyson Marie Merlino
Title: ELECTRIC HOUSEHOLD APPLIANCE HAVING A CHILD
SAFETY FEATURE

Mail Stop Appeal Brief - Patents

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF

In response to the Examiner's Answer, and in further support of the Appeal of the above-identified application, Appellants submit the following remarks.

All pending claims are rejected under 35 U.S.C. §112, second paragraph. The Examiner has raised specific objections to the language appearing in claims 22, 26 and 31.

I. Claim 22

With respect to the objections raised to certain language appearing in claim 22, Appellants stand by the explanation and arguments provided in the Appeal Brief filed on January 10, 2011. Appellants maintain that one of ordinary skill in the art would readily understand how the features recited in claim 22 correspond to and are supported by the disclosure provided in the specification and drawings of the present application. Specifically, Appellants maintain that the fact that the claim feature of a "gripping device" corresponds to multiple individual elements in the mechanism illustrated in Figures 2 and 3 of the application does not render this claim feature indefinite. Accordingly, it is respectfully submitted that the rejection of claim 22 under §112 should

be withdrawn.

II. Claim 26

Appellants note that in the Examiner's Answer Brief, the Examiner has withdrawn the specific rejection of claim 26 under 35 U.S.C. §112, second paragraph. The withdrawal of the specific rejection of claim 26 is acknowledged with appreciation.

III. Claims 31 and 32

Claim 31 depends from claims 22, 28 and 30. Claim 31 is directed to an electric household appliance that includes a receptacle for receiving items, a door for permitting access to the receptacle, a door lock for the door, and a handle with a gripping shell. Various features of the door lock are recited in claims 22, 28 and 30. Claim 31 adds the feature of a handle with a gripping shell.

One type of door lock mechanism that can be used in an electric household appliance is illustrated in Figures 2 and 3 of the application. Individual parts of that door lock mechanism are illustrated in Figures 4-7. Appellants note that Figures 2 and 3 do not show an entire appliance door with the door lock mechanism mounted on the door. Instead, Figures 2 and 3 illustrate only the door lock mechanism itself.

Figure 8 of the application illustrates an appliance door having a handle with a gripping shell 93. The embodiment illustrated in Figure 8 includes a door lock mechanism, but the door lock mechanism in this embodiment is different from the door lock mechanism illustrated in Figures 2 and 3.

The Examiner has taken the position that because the application does not include a single drawing figure that illustrates an embodiment that includes both the door lock mechanism illustrated in Figures 2 and 3 and a handle with a gripping shell as illustrated in Figure 8, the application does not provide support for an embodiment that includes both features. Appellants respectfully disagree.

The scope of enablement provided by an application is that which is disclosed in the specification, plus the scope of what would be known to one of ordinary skill in the art. The specification need not describe how to make and use every possible variant of the claimed invention, for the skilled artisan's knowledge of the prior art and routine

experimentation can often fill gaps, interpolate between embodiments, and perhaps even extrapolate beyond the disclosed embodiments, depending upon the predictability of the art. AK Steep Corp. v. Sollac, 344 F.3d 1234, 68 USPQ2d 1280, 1287 (Fed. Cir. 2003).

In this instance, because we are dealing with mechanical arts, and appliances at that, the predictability of the art is high. One of ordinary skill in the art, reviewing the disclosure of the application, would immediately understand that it would be very easy to assemble an appliance door that includes a door lock as illustrated in Figures 2 and 3 and a handle as illustrated in Figure 8. The fact that the application shows these two features in different drawing figures does not mean that the application fails to provide support for an embodiment including both features.

Appellants also note that Figures 2 and 3 do not illustrate a complete embodiment of the claimed appliance. Figures 2 and 3 merely illustrate a lock mechanism that could be used in a household appliance. Figure 8 shows a door of an appliance with a handle. Although the lock mechanism illustrated in Figure 8 is different from the lock mechanism illustrated in Figures 2 and 3, one of ordinary skill in the art would readily appreciate that the lock mechanism illustrated in Figures 2 and 3 could be substituted for the lock mechanism illustrated in Figure 8. Thus, the application fully enables one of ordinary skill in the art to make and use an appliance door as recited in claims 31 and 32.

Stepping back for a moment and viewing this issue from a policy perspective leads one to the proper conclusion. One would not want to require a patent applicant to draft his patent application such that the application includes a disclosure and illustration of every possible different combination of features that are present in a claimed device. Such a requirement would be incredibly burdensome. It would also result in huge patent applications containing an unnecessary number of different embodiments.

Instead, it is sufficient for an Applicant to disclose all of the features that are being claimed. If a particular claim recites a combination of two features that are illustrated in two different drawing figures, this does not automatically render the claim unsupported. Instead, the question is whether one of ordinary skill in the art would be

able to create an embodiment as claimed, using the disclosure of the specification, without conducting undue experimentation. In this instance, it is respectfully submitted that one of ordinary skill in the art would have no difficulty whatsoever in creating an embodiment as recited in claims 31 and 32 of the application using only the disclosure provided in the application, and the knowledge available to that person of ordinary skill in the art.

More specifically, there is absolutely no reason why a door lock mechanism as illustrated in Figures 2 and 3 would be incompatible with a handle with a gripping shell as illustrated in Figure 8. Claim 31 recites that a free end of an adjusting lever of the lock mechanism projects partly over a slot-shaped recess in the gripping shell. One of ordinary skill in the art would have no difficulty creating a handle with a slot-shaped recess, and where the adjusting lever of a lock mechanism projects partly over the slot-shaped recess. In fact, the embodiment illustrated in Figure 8 of the application specifically shows a handle with multiple slot-shaped recesses.

If the specification of an application contains a description of the claimed invention, albeit not in the identical words, then the Examiner must provide reasons why one of ordinary skill in the part would not consider the description sufficient. In re Alton, 76 F.3d, 37 USPQ2d 1578, 1583 (Fed. Cir. 1996). In this instance, the Examiner has provided no reasons why the specification would fail to enable one of ordinary skill in the art to make an appliance as recited in claims 31 and 32. This is not surprising, because the specification is, in fact, fully enabling for a household appliance as recited in claims 31 and 32.

In view of all of the foregoing, it is respectfully submitted that claim 31 is proper under 35 U.S.C. §112, second paragraph. Withdrawal of the rejection of claim 31, as well as dependent claim 32, is respectfully requested.

IV. Conclusion

In view of the foregoing discussion, Appellants respectfully request reversal of the Examiner's two outstanding rejections.

Respectfully submitted,

/Andre Pallapies/

Andre Pallapies
Registration No. 62,246
April 26, 2011

BSH Home Appliances Corporation
100 Bosch Blvd.
New Bern, NC 28562
Phone: 252-672-7927
Fax: 714-845-2807
andre.pallapies@bshg.com